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2                   UNITED STATES DISTRICT COURT  
3                   SOUTHERN DISTRICT OF OHIO  
4                   WESTERN DIVISION  
5 -----  
6 DOUGLAS W. BAILLIE, :  
7                   Plaintiff, :  
8                   vs. :                   CASE NO.  
9 CHUBB & SON INSURANCE: :                   C-1-02-062  
10                  Defendant :  
11 -----

12                  DEPOSITION OF: JEFFREY ALLEN BARTON  
13                  TAKEN:           By the Plaintiff  
14                  DATE:           February 28, 2003  
15                  TIME:           Commencing at 9:00 a.m.  
16  
17                  PLACE:           Offices of:  
18                                Freking & Betz  
19                                215 East Ninth Street  
20                                Fifth Floor  
21                                Cincinnati, Ohio 45202  
22  
23                  BEFORE:           RAYMOND E. SIMONSON  
24                                Registered Merit Reporter  
25                                Notary Public - State of Ohio

1 APPEARANCES:  
2                  On behalf of the Plaintiff:  
3                           RANDOLEH H. FREKING, ESQ.  
4                           of  
5                           Freking & Betz  
6                           215 East Ninth Street  
7                           Fifth Floor  
8                           Cincinnati, Ohio 45202  
9  
10                  On behalf of the Defendant:  
11                           DAVID T. CROALL, ESQ.,  
12                           of  
13                           Porter, Wright, Morris & Arthur  
14                           250 East Fifth Street, Suite 2200  
15                           Cincinnati, Ohio 45202-5117

13                  S T I P U L A T I O N S  
14                  It is stipulated by and between counsel for  
15                  the respective parties that the deposition of JEFFREY ALLEN  
16                  BARTON, a witness herein, may be taken at this time by  
17                  Counsel for the Plaintiff as upon cross-examination  
18                  pursuant to the Federal Rules of Civil Procedure; that the  
19                  deposition may be taken in stenotypy by the notary  
20                  public-court reporter and transcribed by him out of the  
21                  presence of the witness; that the transcribed deposition is  
22                  to be submitted to the witness for his examination and  
23                  signature; and that signature may be affixed out of the  
24                  presence of the notary public-court reporter.

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3                   I N D E X  
4  
5 JEFFREY ALLEN BARTON                   PAGE  
6 CROSS-EXAMINATION BY MR. FREKING:     4

1                  JEFFREY ALLEN BARTON  
2                  of lawful age, a witness herein, being first duly sworn as  
3                  hereinafter certified, was examined and testified as  
4                  follows:  
5                  CROSS-EXAMINATION  
6                  BY MR. FREKING:  
7                  Q. Hi, Jeff.  
8                  A. Good morning.  
9                  Q. We have met briefly. My name is Randy  
10                 Freking, and I represent Doug Baillie in connection with a  
11                 matter that is pending in the Federal District Court here  
12                 in Cincinnati, and we're here today to conduct your  
13                 deposition to find out what you may or may not know about  
14                 the facts which may or may not be relevant to Mr. Baillie's  
15                 case, and I apologize upfront for any inconvenience this  
16                 causes you, and, hopefully, this will not be too lengthy.  
17                 We'll certainly try to get you out of here by noon.  
18                 Could you start the deposition by just  
19                 stating your full name, your current address, and your  
20                 marital status, your family status, that kind of thing?  
21                 A. Okay. Jeffrey Allen Barton, 8136 Hopper  
22                 Road, Cincinnati, Ohio, 45255. I'm married, have four  
23                 children.  
24                 Q. That's in Anderson?

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1 he's going around talking to these people, a lot of these  
 2 people were the CSRs that he would talk to, and he would  
 3 talk to all the people in the branch.

4 Now, as far as profitability, I think what  
 5 you're getting there to is making decisions on pricing and  
 6 underwriting, terms and conditions, and whether you remain  
 7 on accounts.

8 Q. How did you view Mr. Baillie in terms of his  
 9 ability to kind of lead?

10 A. I think it worked for some people, but I  
 11 don't think it worked for everybody.

12 Q. Did it work for you?

13 A. It worked for me.

14 Q. And what do you mean by that? How did -- did  
 15 he ever, I guess, show his leadership abilities in  
 16 connection with you in particular?

17 A. Well, as I mentioned earlier, I was new in  
 18 the job, so he taught me a lot of things about the job,  
 19 because he had a lot of experience in that area, and I'm  
 20 not sure that he could lend the same experiences to  
 21 everybody, just because of his experience --

22 Q. All right.

23 A. -- in the marketing.

24 Q. Now, you said there were some people that

1 A. Three years, guessing.

2 Q. Okay. As zone manager, do you think he was  
 3 familiar with the fact that you were in charge of marketing  
 4 here in Cincinnati?

5 A. Um-hmm (nodding head affirmatively).

6 Q. Okay. Do you -- how many times would you  
 7 estimate, you know, during the last three years or so he's  
 8 been zone manager, has he engaged in like business  
 9 discussions with you about how the branch is doing?

10 A. Once or twice a year.

11 Q. And what's the general -- were those  
 12 scheduled events?

13 A. He would make -- he would make branch visits  
 14 and, you know, occasionally business would take him to  
 15 Chicago, where he's located, and I would have a discussion  
 16 with him.

17 Q. Okay.

18 A. I mean, much of the discussion would go  
 19 through the zone marketing manager, their evaluation of  
 20 marketing activity.

21 Q. Right. And who was that? Is that  
 22 Mr. Hannon?

23 A. It's been -- I had a number of different zone  
 24 marketing managers. Originally, it was Larry Hannon, and

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1 maybe it didn't work for in terms of his leadership  
 2 abilities within the branch. What do you mean by that?

3 A. I just think there's some people that didn't  
 4 view him as a leader. And why? I can't answer that.

5 Q. Okay.

6 A. I mean, that's up to the individual person.

7 Q. Do you have any -- do you have any particular  
 8 examples of people you can think of? Or are you kind of  
 9 speculating?

10 A. I'm just speaking in kind of generalities,  
 11 you know, various bits and pieces of information that have  
 12 come in that, you know, I can't necessarily account for  
 13 where they come from.

14 Q. Okay.

15 A. Just a general feeling.

16 Q. Now, do you know a fellow by the name of Tim  
 17 Szerlong?

18 A. Um-hmm (nodding head affirmatively).

19 Q. How long have you known Mr. Szerlong, do you  
 20 think?

21 A. I've known Tim probably since he took over  
 22 the zone manager's job.

23 Q. And do you know approximately how long that's  
 24 been?

1 then Kevin Smith took over for him. And currently my  
 2 report is Zeline Camarek, Zeline; C-a-m-a-r-e-k,  
 3 Z-e-l-i-n-e.

4 Q. Is that male or female?

5 A. Female.

6 Q. Kevin Smith, was he your zone report at any  
 7 time during Mr. Baillie's tenure?

8 A. Yes.

9 Q. Do you have any recollection as to when he  
 10 became your report?

11 A. Probably about six months into my job Larry  
 12 moved on to a different job, and then Kevin was probably  
 13 there for about a year and a half, just rough guess.

14 Q. Okay. Did he leave -- did Mr. Smith move on  
 15 before Mr. Baillie moved on?

16 A. Yes, I believe so. The timing was fairly  
 17 close, so there could have been a little overlap.

18 Q. Now, directing your attention to the time  
 19 that Mr. Baillie came -- from the time Mr. Baillie came  
 20 in as the branch or the regional manager and the day he  
 21 left -- okay, that time frame that you were in there -- can  
 22 you recall any conversations you ever had with  
 23 Mr. Szerlong, specifically regarding Mr. Baillie and his  
 24 performance?

1 the host?

2 A. Yes.

3 Q. How have you -- what would be your opinion of  
4 Mr. Baillie's ability to kind of host those kind of events?

5 Because I suppose they're marketing events, right?

6 A. Um-hmm (nodding head affirmatively).

7 Q. How do you view him as performing that  
8 particular role?

9 A. I think he does fine.

10 Q. All right. Did you ever have any -- form any  
11 kind of opinion that, you know, he drank too much alcohol  
12 at the events or he drank alcohol at inappropriate times or  
13 anything like that?

14 A. Doug did drink a lot. Whether I found it  
15 inappropriate, I -- I don't know. I mean, only thing about  
16 Doug, he could handle his alcohol, and, you know, I don't  
17 recall anybody commenting to me about, you know, a negative  
18 situation.

19 Q. All the agents kind of report to you in a  
20 sense, correct?

21 A. Correct.

22 Q. All right. And are these golf outings  
23 generally designed to entertain agents and such?

24 A. Agents and customers.

1 everything.

2 Q. Now, what did -- during your -- while Mr.  
3 Baillie was at the Cincinnati location, did you ever hear  
4 any particular criticism from other employees of Mr.  
5 Baillie's performance as the branch manager?

6 A. There would be comments.

7 Q. Okay. What kind of comments can you recall  
8 hearing?

9 A. I think one of the comments would be that  
10 they would have conflicting goals.

11 Q. You mean sometimes there would be conflicting  
12 goals between like marketing and underwriting?

13 A. Yes.

14 Q. Is that -- is that common for that kind of  
15 criticism to be directed at a branch manager, in the sense  
16 that underwriting kind of sides with him on issues?

17 Sometimes the goals in marketing and underwriting are at  
18 odds with each other?

19 A. I think it can be typical, but there are  
20 certain degrees.

21 Q. Okay.

22 A. I mean, the branch manager's job is to  
23 balance both.

24 Q. Did you think this was unusually high? Or

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1 Q. Agents and customers. So during Mr.  
2 Baillie's tenure with the company, you never heard an agent  
3 or a customer remark or complain to you that, "Hey, Baillie  
4 is drinking too much or he's drinking at inappropriate  
5 times," or anything like that, because this is -- these are  
6 social outings, right?

7 A. Um-hmm (nodding head affirmatively). They  
8 would comment and there would be some jokes about the  
9 amount of alcohol he drinks.

10 Q. Okay. More along the lines of -- you know,  
11 I've got a friend who is an executive with a company, and  
12 this fellow just has the ability -- he can drink beer from  
13 probably 7 a.m. until about 3 a.m., get about two and a  
14 half hours of sleep, and be the first guy on the tee the  
15 next morning and pop another beer at 7 a.m. and do the same  
16 thing for three or four days and handles himself completely  
17 fine.

18 In your experience -- and maybe Mr. Baillie  
19 is not that well versed -- but would you say the comments  
20 are kind of more in that regard?

21 A. I mean, they commented about how much he  
22 drank, and most of the time it was jokingly. But, you  
23 know, one of the things I find in my job is, because  
24 they know I'm close to Doug, I don't always hear

1 how would you describe the amount of criticism with respect  
2 to --

3 A. I think there were probably a few more than I  
4 would expect and the frustration level of some of the  
5 employees, because it was repeated, was probably a little  
6 bit on the high side.

7 Q. Okay. And to what do you attribute the  
8 frustration?

9 A. I think it's a conflicting goal between, you  
10 know, what Doug wanted them to do and what they -- they and  
11 maybe the home office underwriting people felt they should  
12 do on an individual account.

13 Q. So the frustration arose generally out of a  
14 difference of opinion as to what to do with the business?

15 Mr. Baillie wanted -- made a particular decision and --

16 A. In this particular issue, yes.

17 Q. Underwriting?

18 A. Yes.

19 Q. Any other type of criticisms you heard with  
20 regard to Mr. Baillie?

21 A. Some people have said that they weren't clear  
22 on exactly what he wanted them -- wanted them to do, and  
23 through dialogue they weren't able to come to that, "Okay,  
24 now I know what you want," you know, "what my marching

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1 orders are."

2 Q. Do you know whether or not Mr. Baillie by the  
3 end of his tenure was generally viewed as a successful  
4 branch manager?

5 MR. CROALL: By whom? Generally viewed?

6 Within the Cincinnati branch?

7 Q. Within the office.

8 A. Some people, probably yes; some people,  
9 probably no. I think there were different opinions.

10 Q. Tell me a little bit about Jerry Butler.

11 What do you know about Mr. Butler?

12 A. As far as?

13 Q. You know, what's his background? Is he  
14 coming from a marketing background? Underwriting  
15 background?

16 A. He's had -- I believe he started in the  
17 business in a claims role with the company, and then he was  
18 in a training and education role with the company. And  
19 with Chubb he's been in human resources, marketing, and  
20 branch management.

21 Q. And is he still in the branch manager role  
22 here locally?

23 A. Yes.

24 Q. Now, how would you describe his level of

1 directed at Mr. Baillie prior to his termination?

2 A. I mean, I was surprised.

3 Q. You were surprised by his termination?

4 A. Correct.

5 Q. Now, why were you surprised by his  
6 termination?

7 A. I just -- I mean, I assume there was some  
8 kind of process that they went through to come to this  
9 result, and Doug was a pretty good poker player, and for  
10 some reason he chose not to bring me into that.

11 Q. Meaning that, prior to learning of his  
12 termination, he did not --

13 A. He did not confide in me.

14 Q. That there were any kind of performance  
15 issues?

16 A. That there were any kind of performance  
17 issues.

18 Q. And the two of you were relatively good  
19 friends; is that correct?

20 A. Um-hmm (nodding head affirmatively).

21 Q. And would you have expected him to confide in  
22 you if he thought he was in serious jeopardy of losing his  
23 job?

24 A. I think that's a personal decision that he

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1 experience with the level of experience that Mr. Baillie  
2 had?

3 A. His number of years?

4 Q. Yeah, however you feel comfortable.

5 A. I mean, I don't know how to answer that one.

6 Q. All right.

7 A. I mean, I -- I don't know all of Doug's  
8 experiences or all of Jerry's experiences.

9 Q. And how would you describe -- is there  
10 a difference in management style between the two of  
11 them?

12 A. I think there is.

13 Q. How would you describe the difference in  
14 management style?

15 A. I think Jerry's goals and strategies for the  
16 future are much more defined and communicated. I think  
17 there's probably an increased level of accountability with  
18 employees and with the overall numbers in the branch and  
19 people's -- you know, meeting their goals.

20 Q. Now, were you -- you obviously were not  
21 consulted about Mr. -- or were you consulted at all about  
22 Mr. Baillie's termination?

23 A. No.

24 Q. Were you aware of any performance concerns

1 would make.

2 Q. All right. Do you know now whether or not he  
3 was given any kind of warnings or anything like that?

4 A. I don't know.

5 Q. All right. Because you've stayed in contact  
6 with him to some degree?

7 A. I probably haven't talked to him for a year.

8 Q. Okay. Now, did you have after -- how did you  
9 learn he had been terminated?

10 A. I was out of the office. Our son Peter was  
11 born on the Thursday before his termination, so I was back  
12 and forth at the hospital, and he called me at home that  
13 night.

14 Q. And what do you recall about that  
15 conversation?

16 A. I was surprised.

17 Q. Did Mr. Baillie relay to you what had  
18 happened?

19 A. He said he was terminated.

20 Q. Did he -- do you recall whether he was  
21 professional during that conversation?

22 A. He was very -- yes, he was professional.

23 Q. All right. So, at least prior to receiving  
24 this telephone call, you had no suspicion or inkling that

<p style="text-align: right;">Page 37</p> <p>1 A. I assume there was some kind of offer, but 2 that's -- that's just as much --</p> <p>3 Q. You don't know the wheres and wherefors?</p> <p>4 A. I'm not instructed on that.</p> <p>5 Q. Nothing that happened about that?</p> <p>6 A. No.</p> <p>7 Q. Have you ever been in a position, Jeff, of 8 having to offer a departing employee severance?</p> <p>9 A. No.</p> <p>10 Q. Do you know anybody -- do you have any 11 familiarity with anybody who has ever received severance 12 from Chubb?</p> <p>13 A. No specifics.</p> <p>14 Q. All right. And other than counsel, nobody 15 has come to you since Mr. Baillie's departure and tried to 16 get information from you as to his performance, anything 17 like that?</p> <p>18 A. No.</p> <p>19 Q. All right. How did you view Mr. Baillie with 20 respect to kind of develop -- developing you in the 21 marketing area?</p> <p>22 A. I think he helped me a lot. I mean, I was 23 new into the job and, you know, he had experience in that 24 area, so he was helpful to me.</p>	<p style="text-align: right;">Page 39</p> <p>1 supporting it as a goal of the corporation, would be trying 2 to find some minority vendors.</p> <p>3 Q. Did Mr. Baillie encourage you to do that, 4 support you in that regard?</p> <p>5 A. Yes.</p> <p>6 Q. How about the -- would you describe Mr. 7 Baillie's management style as kind of a strong management 8 style?</p> <p>9 A. (No response.)</p> <p>10 Q. Or would you describe it in another manner?</p> <p>11 A. I'm not sure strong is the right word. I'm 12 trying to look for the right word.</p> <p>13 Q. Okay. Well, let me -- while you're thinking 14 about that, maybe we can jump to another subject and maybe 15 come back to that. Maybe this will help.</p> <p>16 Did you ever think that Mr. Baillie took like 17 too many extreme positions on issues and somehow that 18 alienated managers or staff? Or did he seem open to 19 suggestions from you and others?</p> <p>20 A. I think that some people thought that he was 21 too process-driven, numbers-driven; for example, you know, 22 "I want everybody to make 15 agency calls," or, "I want you 23 to do this." And, you know, one size doesn't always fit 24 all, depending on what your job responsibilities are.</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. Did he share his prior expertise or his level 2 of expertise with you and kind of give you suggestions 3 along those lines?</p> <p>4 A. Yeah. He shared some of the things he's done 5 in the past and how they've worked for him, and helped me 6 work through a number of different issues in the marketing 7 department.</p> <p>8 Q. Did he provide constructive feedback to you 9 from time to time?</p> <p>10 A. Um-hmm (nodding head affirmatively).</p> <p>11 Q. And did he give you encouragement along the 12 way to kind of help you handle your tasks?</p> <p>13 A. Yes.</p> <p>14 Q. Do you think -- did Mr. Baillie help you at 15 all in trying to develop your confidence in handling your 16 job?</p> <p>17 A. Yes.</p> <p>18 Q. Did Mr. Baillie assist you in kind of 19 delivering the necessary results in marketing?</p> <p>20 A. Yes.</p> <p>21 Q. How about -- any kind of particular issues 22 along the lines of diversity or diversity initiatives 23 within Chubb that you observed with Mr. Baillie?</p> <p>24 A. In my part of diversity, in addition to</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay.</p> <p>2 A. And I think that, you know, could be an issue 3 for some people. One issue that came up, in order to get 4 casual during the summer, he set very specific goals, and I 5 think that alienated some people.</p> <p>6 Q. Okay. Is that all that unexpected in a large 7 organization, that a manager is going to alienate some 8 people and please others?</p> <p>9 A. I don't know.</p> <p>10 Q. How about his ability to kind of listen to 11 you and others that you observed during his tenure? Did he 12 seem to have good listening skills?</p> <p>13 A. The attention span was a little bit short at 14 times, and I think sometimes he probably jumped to 15 conclusions on some issues.</p> <p>16 Q. Okay. Now, other than what we've talked 17 about this morning, do you think -- well, do you think you 18 have any particular knowledge about why Mr. Baillie was let 19 go by Chubb?</p> <p>20 A. Nobody's ever told me.</p> <p>21 Q. All right. And you don't believe you 22 provided any input into that process at all?</p> <p>23 A. No. Did Tim come and ask me specifically, 24 "Here's what I need to know about Doug?" No. But, you</p>